



Signed and Filed: October 28, 2019

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:) Bankruptcy Case
PG&E CORPORATION,) No. 19-30088-DM
- and -) Chapter 11
PACIFIC GAS AND ELECTRIC COMPANY,) Jointly Administered
Debtors.)
☐ Affects PG&E Corporation)
☐ Affects Pacific Gas and)
Electric Company)
☒ Affects both Debtors)
** All papers shall be filed in)
the Lead Case, No. 19-30088 (DM).)*

ORDER APPOINTING MEDIATOR

In March, 2003, in the first PG&E bankruptcy (by the Utility only), the court ordered mediation. In its order it made the following observation:

The court has considered those requests and has reflected on the history of this case (which reaches its second anniversary on April 6th), the staggering expense to be incurred by all parties as a result of further delay, and the fact that the two competing plans pay creditors in full and

1 that the proponents of those plans differ
2 primarily about the environment within which the
3 Debtor or the disaggregated entities will function
4 in a post-confirmation world. The court is quite
5 aware of the philosophical differences that
6 separate Debtor and its parent from CPUC and the
7 other non-private objectors in particular. (Case
8 No. 01-30923, Doc. No. 12296, March 4, 2003, at
9 1-2)

10 A resolution followed with the help of an experienced
11 mediator.

12 Now, more than sixteen years later in the Utility's second
13 case (this time with parent company), the need for mediation is
14 far more obvious and the stakes unbelievably higher. After
15 presiding over every hearing in these chapter 11 cases over the
16 past nine months, the court is convinced that mediation should
17 be attempted once again.

18 Certain parties are polarized; the emotions are running
19 higher and higher, the staggering costs (economic and otherwise)
20 are multiplying daily and very recent events that need not be
21 repeated here but are obvious to everyone in Northern California
22 might make a successful reorganization even more of a challenge.

23 On top of that, the clock is ticking on AB 1054 while the
24 Tubbs Fire trial looms in January and the district court
25 estimation hearings follow right behind in February.

26 Meanwhile, as stated frequently by the court and others,
27 thousands of wildfire victims, who stand before the court as
28 involuntary creditors, await some resolution, albeit imperfect,
to try to restore their economic losses, consistent not only
with AB 1054, but more importantly, as compelled by the moral
necessity of doing so.

1 Under the extraordinary exigencies of the situation and the
2 expressed willingness of some of the principal parties to
3 participate in mediation, the court will exercise its inherent
4 authority under 11 U.S.C. § 105 and order the principal parties
5 to make a good faith effort to mediate whatever issues can be
6 identified with the help of the same experienced mediator. The
7 obvious goal is to confirm a chapter 11 plan in order to set in
8 place the next stage of the complex process of compensating
9 those victims for their losses.

10 At the same time the numerous parties who chose to be
11 creditors (in most instances unsecured creditors entitled to the
12 same priority under the bankruptcy code), are equally entitled
13 to what is due to them under applicable law.

14 Finally, based upon the current apparent state of things,
15 equity owners are entitled to consideration of their rights
16 under whatever alignment or realignment may follow as part of a
17 chapter 11 plan.

18 For all of the forgoing reasons, and the myriad other
19 reasons well-established in the complex record of these cases to
20 date,

21 IT IS HEREBY ORDERED, that Retired Bankruptcy Judge Randall
22 J. Newsome ("Mediator") is appointed Mediator in these cases.

23 Mediator shall serve at the expense of the estate beginning
24 as of the date of this order. He is entitled to be paid at
25 hourly or daily rates (as regularly adjusted in accordance with
26 his normal practice) as charged by him through JAMS where he
27 regular performs as a mediator, plus his reasonable and
28 necessary expenses (including lodging and travel) and a JAMS

1 management fee (to be determined) as set forth in the attached
2 schedule.

3 He is entitled to be paid by Debtors monthly upon his
4 submission of monthly billings setting forth total time charges
5 and a listing of his expenses, with copies provided to the
6 United States Trustee and counsel for the two official
7 committees. He is not required to submit detailed applications
8 or otherwise comply with the procedures in place for
9 professionals employed under Sections 327 or 1103 pursuant to
10 this court's Guidelines For Compensation and Expense
11 Reimbursements of Professionals, similar orders issued to date
12 in these cases or the pending Fee Examiner protocols. He is
13 required to maintain time records. His final compensation and
14 allowance of expenses are subject to court approval upon
15 completion of his services as Mediator.

16 The provisions of B.L.R. 9045-2(a), (b) and (c) regarding
17 attendance at, or failure to attend, mediation sessions (whether
18 in person, by video conference or telephone) as called by the
19 Mediator shall be deemed to apply as to parties and their
20 professionals and advisors. So too will the provisions of
21 B.L.R. 9047-1 (a), (b) and (c) regarding confidentiality. Other
22 provisions of the civil and bankruptcy local rules apply as
23 applicable, including B.L.R. 1001-2(b) and Civil. L.R. 16-
24 8(b)(2) and ADR Local Rules 7-2 and 8-2).

25 Because of the time pressures on all parties, the Mediator
26 and the court, all should understand that the court expects and
27 directs all parties and their professionals and advisors to
28 comply with any reasonable requests by the Mediator for active

1 attendance at and participation in any conferences or request by
2 him for production of documents (as widely defined as possible).
3 And because of limited resources of both the court and the
4 Mediator, Debtors are directed to provide by overnight delivery
5 hard copies of any items on the docket that he requests.

6 The court expects that once the Mediator has made initial
7 contact with the principal parties and their professionals and
8 advisers and has assessed the challenges he faces, he may decide
9 (with or without their consent) to recommend the appointment of
10 one or more additional mediators who possess needed requisite
11 expertise and experience to join him in his efforts. He should
12 do that on an expedited basis, with notice to the principal
13 parties. The court expects to act promptly on any such
14 recommendation.

15 ****END OF ORDER****
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Mediation Fee Schedule

Hon. Randall J. Newsome (Ret.)

PROFESSIONAL FEES

Daily Rate..... \$7,500

Half Day Rate..... \$4,500

Includes up to 8 hours of session time on the scheduled day.

Includes up to 4 hours of session time on the scheduled day.

- Other professional time (including additional session time, pre- and post-session reading and research, and conference calls) will be billed at \$750 per hour.
- All travel expense are billed at actual cost

CASE MANAGEMENT FEE

- The Case Management Fee includes access to an exclusive nationwide panel of judges, attorneys, and other ADR experts, dedicated services including all administration through the duration of the case, document handling, and use of JAMS conference facilities including after hours and on-site business support. Weekends and holidays are subject to additional charges.

JAMS agreement to render services is with the attorney, the party, and/or other representatives of the party.

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